

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

ZIH Corp.,

Plaintiff,

v.

Paxar Corporation,

Defendant.

C.A. No.: 1:03-cv-12358-DPW

**PLAINTIFF ZIH CORP.'S REPLY TO DEFENDANT'S COUNTERCLAIMS**

ZIH Corp. ("ZIH") replies to the numbered paragraphs of Paxar Corporation's ("Paxar")

Counterclaims as follows:

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Paxar's answers to paragraphs 1-20 of ZIH's complaint contain no allegations requiring a reply. ZIH's replies to Paxar's paragraphs 21-26 are set forth above and incorporated herein by reference.

28. ZIH admits that Paxar's counterclaims seek a declaratory judgement of patent invalidity, unenforceability, and noninfringement and arise under the patent laws of the United States. ZIH denies that the patents-in-suit are invalid, unenforceable or not infringed by the accused products.

29. Admitted.

30. Admitted.

31. Admitted.

32. Admitted.

33. ZIH admits that it has submitted to personal jurisdiction in this Court for this specific action. ZIH denies the remaining allegations of this paragraph.

34. Admitted.

35. Admitted.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. ZIH's replies to paragraphs 27-39 are set forth above and incorporated herein by reference.

41. Denied.

42. Denied.

43. Admitted.

44. ZIH's replies to paragraphs 27-39 are set forth above and incorporated herein by reference.

45. Denied.

46. Denied.

47. Admitted.

#### **AFFIRMATIVE DEFENSES**

1. Paxar has willfully infringed and is willfully infringing the patents-in-suit.

2. The patents-in-suit are not invalid.
3. The '753 patent is not unenforceable.
4. Paxar's Count II fails to state a claim upon which relief can be granted with respect to the requested declaratory judgment of unenforceability.

WHEREFORE, ZIH Corp. denies that Paxar Corporation is entitled to any of the relief prayed for in Paxar Corporation's Counterclaims, and ZIH Corp. prays that:

- (1) Paxar Corporation's Counterclaims be dismissed with prejudice;
- (2) ZIH Corp. be awarded its attorneys' fees and costs in defending this matter; and
- (3) the Court grant such other further relief as it may deem just.

Dated: January 5, 2004

Respectfully submitted,

/s/ Brian M. Gaff

Douglas J. Kline, BBO# 556680

Christopher W. Stamos, BBO# 633645

Brian M. Gaff, BBO# 642297

William A. Meunier (pro hac vice)

Testa, Hurwitz & Thibault, LLP

High Street Tower

125 High Street

Boston, MA 02110-2704

Phone: (617) 248-7000

Fax: (617) 248-7100

[www.tht.com](http://www.tht.com)

Attorneys for Plaintiff ZIH Corp.

*(Filed electronically – Certificate of Service not required.)*

3000195